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ALEXANDER L. STEVAS
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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1983

No. 83-110

VIVIAN WILLIAMS, ET AL.,
Petitioners

v.

SHAWN LADNER, ET AL.,
Respondents

ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME JUDICIAL COURT OF THE
STATE OF MAINE

MEMORANDUM OPPOSING CERTIORARI

MICHAEL D. SEITZINGER, ESQ.
PIERCE, ATWOOD, SCRIBNER,
ALLEN, SMITH & LANCASTER
77 Winthrop Street
Augusta, Maine 04330
Attorney for Respondents
Mason Mitchell Trucking
Company and St. Paul
Insurance Company

WARREN E. WINSLOW, JR.
of Counsel

MEMORANDUM OF MASON MITCHELL TRUCKING COMPANY AND ST. PAUL INSURANCE COMPANY OPPOSING CERTIORARI

Respondents Mason Mitchell Trucking Company and St. Paul Insurance Company represent to the Court as follows:

1. The decision of the Maine Supreme Judicial Court of which review is sought by Petitoners, which is reported as Ladner v. Mason Mitchell Trucking Co., 434 A.2d 37 (Me. 1981), was decided on August 24, 1981. The Petition was filed on July 21, 1983, more than 90 days since the entry of judgment by the Maine Supreme Judicial Court, and the period for applying for a writ of certiorari was not extended by a Justice of this Court pursuant to 28 U.S.C. §2101(c) or Rule 22 of this Court. Therefore, the Petitioner's application for a writ of certiorari is out of time.

2. The constitutional issue presented in the Petition was never raised by Petitioners in the court below or passed upon by the court below.

3. The decedent had no children living with him at the time of his death and therefore the facts of record in the court below will not support a determination of the question presented in the Petition.

Therefore, the petition for writ of certiorari should be denied.

Dated: August 5, 1983.

Respectfully submitted,

MICHAEL D. SEITZINGER, ESQ.
PIERCE, ATWOOD, SCRIBNER,
ALLEN, SMITH & LANCASTER
77 Winthrop Street
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Attorney for Respondents
Mason Mitchell Trucking
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Insurance Company

WARREN E. WINSLOW, JR.
of Counsel

CERTIFICATE OF SERVICE

Pursuant to Rule 33 of the Rules of this Court, the undersigned, counsel of record for Respondents Mason Mitchell Trucking Company and the St. Paul Insurance Company, did deposit today in the United States Mail in Augusta, Maine, first class postage prepaid, three copies of the above "Memorandum Opposing Certiorari" for, and addressed to, counsel for each of the parties as follows:

David F. Gould, Esquire
154 State Street
P. O. Box 33
Presque Isle, Maine 04769

Patrick E. Joyce, Esquire
Cloutier, Joyce, Dumas
and David
3 Church Street
P. O. Box E
Livermore Falls, Maine 04254

Dated at Augusta, Maine this 5th day of August, 1983.

Michael D. Seitzinger, Esq.
PIERCE, ATWOOD, SCRIBNER,
ALLEN, SMITH & LANCASTER
77 Winthrop Street
Augusta, Maine 04330

Attorney for Respondents
Mason Mitchell Trucking
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Insurance Company